



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Testimony of Senator Jill P. Carter

**In Favor of SB761 Child in Need of Assistance –
Neglect – Cannabis Use**

Before the Judicial Proceedings Committee

on March 15, 2023

**Chair Smith, Vice-Chair Waldstreicher, and Members of the
Committee:**

- **SB761 provides important protections that will help reduce incidents of violence in Maryland prisons. When transgender people are incarcerated, they are subjected to constant violence by both prison staff and other prisoners.**
- **SB761 does the following: (1) prohibits an employee of a correctional facility from discriminating against an inmate with regard to programs, services, or activities, as specified, on the basis of the inmate's race, ethnicity, religion, national origin, age, sex, gender identity, sexual orientation, disability, pregnancy status, or political beliefs; (2) requires the managing official of a correctional facility to implement a written policy prohibiting discrimination against an inmate within the specified protected classes; and (3) establishes requirements**

for correctional facilities relating to inmates within specified protected classes.

- **Currently, transgender women are being placed in cells with individuals who are known to be violent towards transgender women. When the transgender women refuse such violent housing, they are punished and placed into administrative segregation, where they are only allowed out of their cells for one hour per day; they lose access to programming, classes and jobs; and they may lose accumulated good conduct credits.**
- **The conditions in our carceral institutions result in high levels of stress, fear, social isolation, infectious disease, and violence exposure, all of which can increase disability risks. Maryland prison conditions punish incarcerated individuals, especially transgender women, by damaging their health and wellbeing. SB761 will reduce some of these unjustifiable impacts.**
- **The bill will allow LGBTQ+ individuals to request transfers to gender appropriate facilities based upon their housing preferences and overall safety concerns.**
- **The submitted last year was originally based on a California bill of the same name. The California law has been an important step forward in protecting incarcerated transgender persons, and it has not led to disarray or an increase in violence in California prisons. California has approximately 1,671 incarcerated transgender, nonbinary, and intersex individuals. In the two years since the California bill was implemented, there have only been 353 housing transfer requests, and only 13% have been approved (47 approvals).**

- **The bill this year now includes a definition of “gender identity,” consistent with the definition used throughout Maryland’s Code. The definition requires that gender identity be “consistent and uniform” or have “other evidence that the gender identity is sincerely held as part of the person's core identity.” This definition also makes it even less likely that a non-transgender person would risk the violence imposed on those who are perceived as transgender in order to access a housing transfer.**
- **The bill no longer states that an incarcerated person shall be housed according to open-ended “preference.” Now, housing is only permitted in accordance with either gender identity or sex assigned at birth. In other words, the person must have a sincerely held transgender identity in order to request housing that does not align with sex assigned at birth.**
- **The bill also tightens up language permitting the prison to deny transfer requests. The bill now explicitly states that requests may be denied based on a “risk that the inmate may commit abuse.”**
- **These changes strike the appropriate balance to ensure additional safety for all incarcerated Marylanders.**
- **In sum, this bill will protect transgender and other individuals from being subject to discrimination and violence, and provide a safer and more orderly prison system.**

For these reasons, I urge a favorable report of SB761.

Sincerely,



Jill P. Carter, Esq.